

REMARKS

Status of Claims

Claims 33 through 67 are pending in the application; dependent claims 66 and 67 are newly presented. Claims 1 through 32 have been previously canceled without prejudice or disclaimer of its subject matter.

Requirement for Restriction Under 37 CFR §1.142

In the Office action mailed on 19 May 2006 (Paper No. 20060514), the Examiner required a restriction between:

- Group I. Claims 33 through 53 drawn to an RDC cord hermetically encapsulated in a metal tubing, classified in Class 102, subclass 275.1; and
- Group II. Claims 54 through 65, drawn to an RDC cord filling an aluminum tube, a surrounding stainless steel tube, classified in Class 102, subclass 275.1.

Applicant respectfully traverses the election requirement imposed in the Office action, but provisionally elects Group II.. Claims 54 through 67 are all within elected Group II.

Applicant objects to and traverses the restriction requirement on the grounds that the subject matter of the two groups overlap. In addition, the mandatory fields of search for the two embodiments are coextensive. Finally, it appears that the restriction requirement is being imposed merely for administrative convenience, and such a basis for imposition of a restriction requirement has been prohibited in previous decisions of the Commissioner.

It is submitted that search of the U.S. Patent Collection produced the following partial list of recent U.S. patent issued which are in fact classified in both Class 102, subclass 275.1 and Class 102, subclass 275.1 with aluminum:

Results of Search in U.S. Patent Collection db for:

(CCL/102/275.1 AND aluminum): 27 patents.

Hits 1 through 27 out of 27

	PAT. NO.	Title
1.	6,834,594	Tubular gas generator
2.	6,688,231	Cord-type gas generator
3.	6,647,887	Linear ignition fuze with shaped sheath
4.	6,536,798	Controlling activation of restraint devices in a vehicle
5.	6,467,415	Linear ignition system
6.	6,386,085	Method and apparatus for explosives assembly
7.	6,272,996	In-line initiator and firing device assembly
8.	6,247,410	High-output insensitive munition detonating cord
9.	6,006,671	Hybrid shock tube/LEDC system for initiating explosives
10.	5,827,994	Fissile shock tube and method of making the same
11.	5,540,154	Non-pyrolizing linear ignition fuse
12.	5,473,987	Low energy fuse
13.	5,285,728	Successive-actuation device, using pyrotechnic cord
14.	5,277,120	Extended charge cartridge assembly
15.	5,181,737	Safety apparatus for vehicle occupant
16.	5,101,729	Low energy fuse
17.	5,005,694	System for packaging detonating cord for transport
18.	4,917,017	Multi-strand ignition systems
19.	4,838,165	Impeded velocity signal transmission line
20.	4,819,612	Self-heating container
21.	4,756,250	Non-electric and non-explosive time delay fuse
22.	4,716,832	High temperature high pressure detonator
23.	4,660,474	Percussion or impact wave conductor unit
24.	4,608,113	Waterproof quick match and apparatus and method of forming same
25.	4,542,695	Contoured configured detonating cord and detonator
26.	4,488,486	Low brisance detonating cord
27.	4,432,268	Detonation cut-off device

The entirety of class 102, subclass 275.1 is approximately forty-five (45) U.S. Patent references. The foregoing listing of art included within Group II demonstrates both the lack of burden upon the Examining staff in making a simultaneous search of both Groups I and II, and the absence of evidence that Groups I and II are distinct. As specifically stated in MPEP §803, in imposing a

restriction requirement, the Examiner must show that: (A) the inventions are independent (*see* MPEP §802.01, §806.04, §808.01) or distinct as claimed (*see* MPEP §806.05 - §806.05(i)); **and** (B) there will be a **serious burden** on the Examiner if the restriction requirement is not imposed (*see* MPEP §803.02, §806.04(a) - §806.04(i), §808.01(a), and §808.02). It is respectfully submitted that there would **not be a serious burden** upon the Examiner in searching Groups I and II.

Firstly, the Examiner has failed to show any type of burden, much less a serious burden, in the absence of a restriction requirement. In particular, not only has the Examiner failed to show that the search would impose a burden, but also the Examiner has failed to show that any burden would rise to the level of a serious burden. As stipulated in MPEP §803, if the search can be made without serious burden, the Examiner **must examine the application on the merits**, even if there are separate and distinct inventions. The Examiner has not alleged any serious burden in the Office action mailed on 19 May 2006 (Paper No. 20060514) and thus the Examiner must examine the entire application. Moreover, because no burden was shown, if the restriction is not withdrawn in the next Office action, the restriction requirement cannot be made final according to MPEP §706.07.

Secondly, whereas the Examiner has stated that the invention of claims 33 through 53 is classified in Class 102, Subclass 275.1, and that the invention of claims 54 through 65 is also classified in Class 102, Subclass 275.1 but with an aluminum element, it is submitted that, in order to perform a comprehensive search, the Examiner is going to be compelled to perform some searching in Class 102. Thus, the fields of search are coextensive with respect to the two groups of claims, and therefore the restriction requirement serves no purpose other than to impose an undue burden and unnecessary expense upon the Applicants (*see* MPEP §802.01, §806.04, §808.01).

Thirdly, *MPEP* §806.03 states that:

“Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween **should never be required**. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition” (emphasis supplied).

Why, then has this prohibition been violated in the above-captioned application where a single embodiment has been disclosed? That fact that Applicant’s claims are very broad in scope, and cover a plethora of implementations of the principles of Applicant’s inventions, is not a basis for violating this prohibition against restriction. Withdrawal of this requirement is therefore respectfully urged.

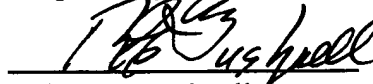
For the above reasons, it is respectfully submitted that the restriction requirement is unnecessary, is not in accordance with the Rules of Practice or the *MPEP*, and constitutes the imposition of an undue burden and unfair expense upon the Applicants. Therefore, the restriction requirement should be withdrawn.

If the requirement for restriction is not withdrawn, then the Applicants reserve the right to file a Petition to the Commissioner because there is no *serious* burden upon the Examiner in searching the invention of Group I and Group II.

In view of the above, it is requested that the restriction requirement be withdrawn. It is further submitted that the application is in condition for examination on the merits, and early allowance is requested.

In view of the filing of the present application with thirty-five (35) claims on 1 March 2002, of which five (5) claims are independent, addition of new dependent claims 66 and 67 by this Amendment/Response does *not* incur additional fee. Accordingly, please **DO NOT** charge the Deposit Account of Applicant's undersigned attorney for newly added claims 66 and 67.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. E. Bushnell', is written over a horizontal line.

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